

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
	:	NO. 19-368-1, 6
v.	:	
	:	
HAMLET TANTUSHYANYAN, HRCHYA GYULUMYAN	:	
	:	

ORDER

AND NOW, this _____ day of October, 2019, upon motion by the government, a hearing, pursuant to Rule 44(c) of the Federal Rules of Criminal Procedure, concerning joint representation of defendants Hamlet Tantushyan (defendant no. 1) and Hrchya Gyulumyan (defendant no. 6) will be held on _____.

BY THE COURT:

HONORABLE PAUL S. DIAMOND
Judge, United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
v.	:	CRIMINAL NO. 19-368-1, 6
	:	
HAMLET TANTUSHYAN,	:	
HRCHYA GYULUMYAN	:	

**GOVERNMENT'S MOTION FOR JUDICIAL INQUIRY PURSUANT
TO FEDERAL RULE OF CRIMINAL PROCEDURE 44(c)**

The United States of America, by and through its attorneys, William M. McSwain, United States Attorney for the Eastern District of Pennsylvania, and K.T. Newton, Assistant United States Attorney, moves for a judicial Inquiry, pursuant to Rule 44(c) of the Federal Rules of Criminal Procedure, concerning joint representation of defendants Hamlet Tantushyan (defendant no. 1) and Hrchya Gyulumyan (defendant no. 6) in Criminal No. 19-368, and, in support of this motion, states as follows:

1. On May 22, 2019, a complaint was unsealed charging defendants Hrchya Gyulumyan and Hamlet Tantushyan, with six other individuals, with conspiracy, bank fraud, aggravated identity theft and money laundering. Gyulumyan and Tantushyan, both of whom reside in California, were arrested that day, released on bond, and ordered to appear in the Eastern District of Pennsylvania

2. In June 2019, government counsel was contacted by phone by George Mgdesyan, an attorney in Sherman Oaks, CA, who stated that he was representing Hamlet Tantushyan and that another attorney with whom he was acquainted was representing Hrchya Gyulumyan.

3. On June 20, 2019, government counsel received an email from Anahit Keshishyan, Legal Assistant, Mgdesyan Law Firm, stating that she had faxed a request for a continuance of Hamlet Tantushyan's initial appearance on the complaint in the Eastern District of Pennsylvania to the duty magistrate. That request was granted.

4. On June 27, 2019, defendants Tantushyan and Gyulumyan were indicted, with five other individuals, on charges of conspiracy, bank fraud and aggravated identity theft. Tantushyan and three other defendants were also charged with money laundering, and Gyulumyan was also charged with possession of fifteen or more counterfeit access devices.

5. On August 2, 2019, Andrew Montroy entered his appearance for Gyulumyan.

6. On August 16, 2019, government counsel received an email from Ms. Keshishyan, Legal Assistant, Mgdesyan Law Firm, stating the following:

Our office has been in contact with Mr. Evan Hughes who will be sponsoring us for Mr. Gyulumyan instead of Mr. Andrew Montroy. I understand that there are pretrial motions due today, are we able to get an extension? Please let me know your position.

7. On that same day, in response to a question from government counsel as to whether the Mgdesyan Law Firm was representing both Hamlet Tantushyan and Hrchya Gyulumyan, Ms. Keshishyan responded:

As to our firm representing two defendants, Mr. Mgdesyan does not represent both clients. Mr. Manukyan's office is within our office but he is a separate entity. His name is NOT on our letterhead but I am the assistant for both attorneys.

8. On August 20, 2019, Jordan Jahaire Freeman, with the Hughes Firm LLC, entered his appearance for Gyulumyan and, on August 21, 2019, Andrew Montroy's motion to withdraw as counsel for Gyulumyan was granted.

9. On that same day, Evan T.L. Hughes, also with the Hughes Firm LLC, entered his appearance for defendant Tantushyan.

10. On August 30, 2019, Jordan Jahaire Freeman, who had entered his appearance for defendant Hrchya Gyulumyan, appeared in court on behalf of defendant Hamlet Tantushyan for Tantushyan's initial appearance in the Eastern District of Pennsylvania. Government counsel at that time raised the issue of a conflict of interest from two attorneys with the Hughes Firm representing two defendants in this matter and Tantushyan's arraignment on the indictment was scheduled for September 17, 2019.

11. On September 13, 2019, the Honorable Richard A. Lloret held a status conference call with government counsel and attorney George Mgdesyan concerning Mgdesyan's request for a continuance of Tantushyan's arraignment. Government counsel raised, at that time, the conflict with two attorneys from the Hughes Firm representing Tantushyan and Gyulumyan. Magistrate Judge Lloret informed Mr. Mgdesyan that two attorneys from the Hughes Firm could not represent defendants Tantushyan and Gyulumyan, even as local counsel.

12. On September 13, 2019, attorney Lawrence Bozzelli entered his appearance on behalf of Hrchya Gyulumyan.

13. On September 16, 2019, Mr. Bozzelli filed a motion for *pro hac vice* appearance for Sarkis Manukyan on behalf of defendant Hrchya Gyulumyan. That motion was granted by the Court on October 3, 2019.

14. On September 25, 2019, Evan Hughes filed a motion for *pro hac vice* appearance for George Mgdesyan on behalf of defendant Hamlet Tantushyan.

15. On October 3, 2019, government counsel received an email from Pretrial Services Officer Jimmy Gedeus, stating that he had been contacted by Anahit Keshishyan for attorney Sarkis Manukyan concerning conditions of pretrial release for defendant Hrchya Gyulumyan.

Federal Rule of Criminal Procedure 44(c) provides as follows:

(c) **Joint Representation.** Whenever two or more defendants have been jointly charged pursuant to Rule 8(b) or have been joined for trial pursuant to Rule 13, and are represented by the same retained or assigned counsel or by retained or assigned counsel who are associated in the practice of law, the court shall promptly inquire with respect to such joint representation and shall personally advise each defendant of the right to the effective assistance of counsel, including separate representation. Unless it appears that there is good cause to believe no conflict of interest is likely to arise, the court shall take such measures as may be appropriate to protect each defendant's right to counsel.

Given that one legal assistant, Anahit Keshishyan, works for both attorney George Mgdesyan and attorney Sarkis Manukyan, and that legal assistant has been involved in both attorneys' representation of co-defendants in this case, the government believes that a judicial inquiry pursuant to Federal Rule 44 of the Criminal Rules of Procedure is needed. The government respectfully requests that this Court hold such a hearing to colloquy defendants Hamlet Tantushyan and Hrchya Gyulumyan with respect to the dangers of joint representation, and allow the defendants the opportunity to question the court about the consequences of such representation, as these two defendants must make a voluntary, knowing and intelligent waiver of conflicts if joint representation is to continue. *See, e.g., United States v. Mers*, 701 F.2d 1321, 1325 (5th Cir. 1983); *United States v. Haren*, 952 F.2d 190, 195 (8th Cir. 1991). *See also United States v. Stewart*, 185 F.3d 112, 119-22 (3d Cir. 1999) (holding that law firm was disqualified in criminal case for joint representation because of conflict of interest). In addition, the government asks the Court to consider whether these attorneys, using the same legal

assistant, should be disqualified from the representation of either defendant in this matter on the grounds that the prior representation of both defendants by attorneys using the same legal assistant has created a potential for conflict that cannot be resolved otherwise.

WHEREFORE, the United States of America requests a hearing, pursuant to Federal Rule of Criminal Procedure 44(c).

Respectfully submitted,

WILLIAM M. McSWAIN
United States Attorney

K.T. Newton

K.T. NEWTON
Assistant United States Attorney

Dated: October 11, 2019

CERTIFICATE OF SERVICE

I electronically filed this pleading, and thus caused a copy of this pleading to be served upon the following:

George Mgdesyan, Esquire
Evan T.L. Hughes, Esquire
Attorneys for Defendant Hamlet Tantushyan

Sarkis Manukyan, Esquire
Lawrence Bozzelli, Esquire
Attorneys for Defendant Hrchya Gyulumyan

K.T. Newton

K.T. NEWTON
Assistant United States Attorney

Dated: October 11, 2019